

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 661 - SB 677

March 10, 2015

CORRECTED SUMMARY OF BILL: Requires a judge to make a determination whether the defendant is a threat to the victim, public safety, and reasonably likely to appear in all child abuse, neglect, and endangerment as well as aggravated child abuse, neglect, and endangerment cases before granting bail.

Requires anyone arrested for child abuse, neglect, or endangerment under Tenn. Code Ann. § 39-15-401 or aggravated child abuse, aggravated child neglect, or aggravated child endangerment under Tenn. Code Ann. § 36-15-402 to spend at least 12 hours in local confinement if the magistrate determines that the offender is a threat to the alleged victim. The official may release the accused before the 12 hour period if the magistrate determines that sufficient time has or will have passed for the victim to be protected.

ESTIMATED FISCAL IMPACT:

On March 1, 2015, a fiscal note was issued with an incomplete summary. The fiscal impact is unchanged.

Increase Local Expenditures – \$16,200/Incarceration*

Assumptions:

- Statistics from the Administrative Office of the Courts (AOC) show a five-year average of 162.8 convictions under Tenn. Code Ann. § 39-15-401 for child abuse, neglect, or endangerment, a Class A misdemeanor for endangerment and Class E or D felony for child abuse and neglect, and 176 convictions for aggravated child abuse aggravated child neglect, or aggravated child endangerment under Tenn. Code Ann. § 36-15-402, a Class B felony.
- It is assumed that 50 percent of the convictions ($162.8 \times 0.5 = 81.4$) under Tenn. Code Ann. § 39-15-401 are Class A misdemeanor convictions for child endangerment. The stats from the AOC show trial court convictions. Misdemeanor cases rarely make it to the trial court level. Fiscal Review assumes that only one in 10 misdemeanor cases make to the trial court level. It is assumed that there are 814 (81.4×10) misdemeanor child endangerment cases each year.
- Of these 814 cases, it is assumed that only five percent ($814 \times 0.05 = 40.7$) do not make bail, and therefore would not constitute an additional burden on local governments. It is assumed that the remaining 95 percent of offenders (773.3 offenders) would make bail,

and their 12-hour mandatory stay would constitute an additional cost to local governments.

- It is assumed that the judge would determine 50 percent ($773.3 \times .5 = 386.65$) had been confined long enough to be released without serving the 12-hour confinement.
- The other 386.65 offenders would serve the 12-hour mandatory confinement.
- The estimated 2015 cost per inmate per day for local jails is \$64.39. The cost for 12 hours is \$32.20 ($\$64.39 / 2$).
- The cost for 387 offenders to serve a 12-hour confinement is \$12,461 ($\32.20×387).
- The remaining 81.4 convictions under Tenn. Code Ann. § 39-15-401 are assumed to be felony convictions. It is assumed that 90 percent ($81.4 \times .9 = 73.26$) of these convictions would make bail, and, therefore, constitute an additional cost to local governments.
- It is assumed that the judge would determine 50 percent ($73.26 \times .5 = 36.63$) had been confined long enough to be released without serving the 12-hour confinement.
- The total cost for 37 offenders is \$1,191 ($\32.20×37).
- It is assumed that 90 percent of the 176 convictions ($176 \times 0.9 = 158.4$) under Tenn. Code Ann. § 36-15-402 would make bail, and constitute an additional cost to local governments.
- It is assumed that the judge would determine 50 percent ($158.4 \times .5 = 79.2$) had been confined long enough to be released without serving the 12-hour confinement.
- The total cost for 79 offenders is \$2,544 ($\32.20×79).
- The total increase in local incarceration costs is \$16,196 ($\$12,461 + \$1,191 + \$2,544$).
- The AOC confirms that the bill will not significantly impact the courts' caseload. The bill does not create any new cases, but rather affects bail proceedings. It is assumed that any impact to the District Attorneys General Conference or the District Public Defenders Conference can be accommodated within existing resources.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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